

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DAILY NEWS, LP, CHICAGO TRIBUNE
COMPANY, LLC, ORLANDO SENTINEL
COMMUNICATIONS COMPANY, LLC, SUN-
SENTINEL COMPANY, LLC, SAN JOSE
MERCURY-NEWS, LLC, DP MEDIA
NETWORK, LLC, ORB PUBLISHING, LLC, and
NORTHWEST PUBLICATIONS, LLC,

Plaintiffs,

v.

MICROSOFT CORPORATION, OPENAI, INC.,
OPENAI LP, OPENAI GP, LLC, OPENAI, LLC,
OPENAI OPCO LLC, OPENAI GLOBAL LLC,
OAI CORPORATION, LLC, and OPENAI
HOLDINGS, LLC,

Defendants.

Case No. 1:24-cv-03285-SHS-OTW

RULE 5.1 NOTICE OF CONSTITUTIONAL CHALLENGE TO A STATE STATUTE

Pursuant to Rule 5.1(a) of the Federal Rules of Civil Procedure, Defendant Microsoft Corporation respectfully files this Rule 5.1 Notice of Constitutional Challenge of a State Statute. In Microsoft's Partial Motion to Dismiss Plaintiffs' Complaint, Microsoft seeks dismissal of Plaintiffs' trademark dilution claim under New York's Gen. Bus. Law § 360-1 (Count VIII). Dkt. No. 77 at 23-25; Dkt. No. 105 at 9-10. Microsoft argues that the claim is barred by the Constitution because, under the particular facts of this case, applying state law in the improper manner Plaintiffs request would run afoul of the Dormant Commerce Clause. Dkt. No. 77 at 23-25; Dkt. No. 105 at 9-10.

In compliance with Rule 5.1(a)(2) of the Federal Rules of Civil Procedure, Microsoft served the New York State Attorney General with a copy of this Notice and the Motion questioning Plaintiffs' application of § 360-1 via certified mail. A true and accurate copy of that notice is attached hereto as Exhibit A.

Dated: February 3, 2025

By: /s/ Annette L. Hurst

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CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2025, the foregoing was served upon the New York State Attorney General by mailing a copy via Certified Mail to the New York State Attorney General at the following address:

Letitia A. James
New York State Attorney General
Managing Attorney's Office of the New York State Attorney General
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By: /s/ Annette L. Hurst

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